



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,607	12/29/1999	FRED OLIVEIRA	E0295/7136	2467

7590                    07/14/2004

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EXAMINER

POLLACK, MELVIN H

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 07/14/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/474,607	OLIVEIRA ET AL. 	
	<b>Examiner</b>	<b>Art Unit</b>	
	Melvin H Pollack	2141	

All participants (applicant, applicant's representative, PTO personnel):

(1) Melvin H Pollack (USPTO). (3) Richard F. Giunta (Reg. No. 36,149).  
 (2) Marc Thompson (USPTO). (4) \_\_\_\_\_.

Date of Interview: 07 July 2004.

Type: a) Telephonic b) Video Conference  
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
 If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1 and 15.

Identification of prior art discussed: Weston-Dawkes, Eslambolchi, and Grun.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See attached sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

MARC D. THOMPSON  
**MARC THOMPSON**  
 PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

**Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  

(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

We discussed Claims 1 and 15, Figs. 12 and 16, and the current standing rejection. The purpose of this interview was to clarify issues regarding this case, so as to determine the issues regarding prosecution. The following is a list of recommendations to the applicant for advancing prosecution.

1. Several terms in the claims remain unclear. Indeed, there may be multiple definitions for each of these terms, depending on interpretation and interpretation of the art that is applied. The applicant is advised to define these terms as thoroughly and clearly as possible, and to show that these terms are related to a typical I/O Stack as known in the art (e.g. IOCTL), and application sharing via Get and Put commands, rather than other interpretations (e.g. sockets, rDMA, etc.) which may confuse the claimed subject matter.

a. Layer – Generic software processing on a command or data segment, i.e. each layer of the OSI model encapsulates the packet

b. Logical Path – A set of two or more layers that causes a command or data segment to have multiple processes applied serially, i.e. the OSI model as a series of layered processes.

c. Physical path – An actual, physical connection through a wire, i.e. through a bus or a network

d. “read/write path” – A specific logical path upon which most of the commands and all of the data are processed. It remains unclear what layers constitute this path, or what processing is normally performed. The examiner interprets the path as a typical I/O stack.

e. “out of band control command” (OOBC) – A command, from a previously defined subset of all commands, which is processed by a subset of the layers that comprise the read/write path, thus traveling through a different and shorter logical path. The examiner interprets that this path may involve commands that skip one or more layers in the above I/O stack during processing. It is unclear whether each command skips the same layers, and how such omissions are determined.

2. The parties agreed that the claimed read/write path is a logical path, which is distinct from the multiple physical paths connecting device(s) to the host computer. Amendment of the claims to clarify this is suggested.

3. Related to the above definitions, the applicant is advised to clarify the relationship between a read/write command and an out-of-band command (OOBC). For example, there should be specific explanations regarding the processing of the two different commands, which layers are skipped in the latter type of command, whether new layers are added in an OOBC, or how this skipping of layers is determined or performed. As the examiner currently understands in accordance with the interview discussions, the read/write path is a typical I/O stack, while an OOBC path omits at least one layer (i.e. functional processing element) within this stack.

4. There should be greater clarification in all independent claims regarding which devices and functions occur within the host computer, and which devices and functions occur outside the host computer, if any.

5. Many of the limitations of the claims currently reside in the preamble. The amount of patentable weight intended to be given to these limitations by applicant is unclear.

The examiner's position will be reassessed after receipt of an official response from the applicant, which should include discussion of the definitions of terms discussed in this interview, extensive elaboration of intended interpretation of the claimed invention to clarify/solidify issues for appeal, and/or amendments which serve to obviate any current rejections based on prior art.

MHP  
07 July 2004

MARC D. THOMPSON  
*MDT*  
PRIMARY EXAMINER